

## § 712.5

## 12 CFR Ch. VII (1–1–09 Edition)

to, the CUSO. The legal advice must address factors that have led courts to “pierce the corporate veil” such as inadequate capitalization, lack of separate corporate identity, common boards of directors and employees, control of one entity over another, and lack of separate books and records. The legal advice may be provided by independent legal counsel of the investing FCU or the CUSO.

### § 712.5 What activities and services are preapproved for CUSOs?

NCUA may at any time, based upon supervisory, legal, or safety and soundness reasons, limit any CUSO activities or services, or refuse to permit any CUSO activities or services. Otherwise, an FCU may invest in, loan to, and/or contract with only those CUSOs that are sufficiently bonded or insured for their specific operations and engaged in the preapproved activities and services related to the routine daily operations of credit unions. The specific activities listed within each preapproved category are provided in this section as illustrations of activities permissible under the particular category, not as an exclusive or exhaustive list.

#### (a) *Checking and currency services:*

- (1) Check cashing;
- (2) Coin and currency services; and
- (3) Money order, savings bonds, travelers checks, and purchase and sale of U.S. Mint commemorative coins services;

#### (b) *Clerical, professional and management services:*

- (1) Accounting services;
  - (2) Courier services;
  - (3) Credit analysis;
  - (4) Facsimile transmissions and copying services;
  - (5) Internal audits for credit unions;
  - (6) Locator services;
  - (7) Management and personnel training and support;
  - (8) Marketing services;
  - (9) Research services; and
  - (10) Supervisory committee audits;
- #### (c) *Business loan origination:*
- (1) *Consumer mortgage loan origination;*

#### (e) *Electronic transaction services:*

- (1) Automated teller machine (ATM) services;

- (2) Credit card and debit card services;

#### (3) *Data processing;*

- (4) Electronic fund transfer (EFT) services;

#### (5) *Electronic income tax filing;*

#### (6) *Payment item processing;*

#### (7) *Wire transfer services; and*

#### (8) *Cyber financial services;*

#### (f) *Financial counseling services:*

- (1) Developing and administering Individual Retirement Accounts (IRA), Keogh, deferred compensation, and other personnel benefit plans;

#### (2) *Estate planning;*

- (3) Financial planning and counseling;

#### (4) *Income tax preparation;*

#### (5) *Investment counseling; and*

#### (6) *Retirement counseling;*

#### (g) *Fixed asset services:*

- (1) Management, development, sale, or lease of fixed assets; and

- (2) Sale, lease, or servicing of computer hardware or software;

#### (h) *Insurance brokerage or agency:*

- (1) Agency for sale of insurance;
- (2) Provision of vehicle warranty programs; and

- (3) Provision of group purchasing programs;

#### (i) *Leasing:*

- (1) Personal property; and
- (2) Real estate leasing of excess CUSO property;

#### (j) *Loan support services:*

- (1) Debt collection services;
- (2) Loan processing, servicing, and sales; and

#### (3) *Sale of repossessed collateral;*

- (k) *Record retention, security and disaster recovery services:*

- (1) Alarm-monitoring and other security services;

#### (2) *Disaster recovery services;*

- (3) Microfilm, microfiche, optical and electronic imaging, CD-ROM data storage and retrieval services;

- (4) Provision of forms and supplies; and

#### (5) *Record retention and storage;*

#### (1) *Securities brokerage services;*

- (m) *Shared credit union branch (service center) operations;*

#### (n) *Student loan origination;*

#### (o) *Travel agency services; and*

#### (p) *Trust and trust-related services:*

- (1) Acting as administrator for pre-paid legal service plans;

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(2) Acting as trustee, guardian, conservator, estate administrator, or in any other fiduciary capacity; and

(3) Trust services.

(q) *Real estate brokerage services.*

(r) *CUSO investments in non-CUSO service providers:* In connection with providing a permissible service, a CUSO may invest in a non-CUSO service provider. The amount of the CUSO's investment is limited to the amount necessary to participate in the service provider, or a greater amount if necessary to receive a reduced price for goods or services.

[63 FR 10756, Mar. 5, 1998, as amended at 64 FR 33187, June 22, 1999; 64 FR 66361, Nov. 26, 1999; 66 FR 40578, Aug. 3, 2001; 68 FR 56551, Oct. 1, 2003]

EFFECTIVE DATE NOTE: At 73 FR 79312, Dec. 29, 2008, § 712.5 was amended in paragraph (a)(2) by removing the word "and" after the semicolon; amend paragraph (a)(3) by adding "and" after the semicolon; add a new paragraph (a)(4); amend paragraph (b)(9) by removing the word "and" after the semicolon; amend paragraph (b)(10) by adding "and" after the semicolon; add a new paragraph (b)(11); amend paragraph (c) by removing the semicolon at the end of the sentence and replacing it with the phrase: ", including the authority to buy and sell participation interests in such loans;" amend paragraph (d) by removing the semicolon at the end of the sentence and replacing it with the phrase: ", including the authority to buy and sell participation interests in such loans;" amend paragraph (f)(5) by removing the word "and" after the semicolon; amend paragraph (f)(6) by adding "and" after the semicolon; amend paragraph (h)(2) by removing the word "and" after the semicolon; amend paragraph (h)(3) by adding "and" after the semicolon; amend paragraph (j)(2) by removing the word "and" after the semicolon; amend paragraph (j)(3) by adding "and" after the semicolon; add new paragraphs (f)(7), (h)(4), and (j)(4) through (j)(6); amend paragraph (n) by removing the semicolon at the end of the sentence and replacing it with the phrase: ", including the authority to buy and sell participation interests in such loans;" add new paragraphs (s) and (t), effective Jan. 28, 2009. For the convenience of the user, the added and revised text is set forth as follows:

### § 712.5 What activities and services are preapproved for CUSOs?

\* \* \* \*

(a) \* \* \*

(4) Stored value products.

(b) \* \* \*

(11) Employee leasing services

\* \* \* \*

(f) \* \* \*

(7) Business counseling and consultant services;

\* \* \* \*

(h) \* \* \*

(4) Real estate settlement services;

\* \* \* \*

(j) \* \* \*

(4) Real estate settlement services;

(5) Purchase and servicing of non-performing loans; and

(6) Referral and processing of loan applications for members whose loan applications have been denied by the credit union;

\* \* \* \*

(s) Credit card loan origination;

(t) Payroll processing services.

### § 712.6 What activities and services are prohibited for CUSOs?

*General.* CUSOs must not acquire control of, either directly or indirectly, another depository financial institution, nor invest in shares, stocks, or obligations of an insurance company, trade association, liquidity facility or similar organization, corporation, or association.

[63 FR 10756, Mar. 5, 1998, as amended at 64 FR 66361, Nov. 26, 1999]

### § 712.7 What must an FCU do to add activities or services that are not preapproved?

In order for an FCU to invest in and/or loan to a CUSO that offers an unpreapproved activity or service, the FCU must first receive NCUA Board approval. The request for NCUA Board approval of an unpreapproved activity or service must include a full explanation and complete documentation of the activity or service and how that activity or service is associated with routine credit union operations. The request must be submitted jointly to your Regional Office and to the Secretary of the Board. The request will be treated as a petition to amend § 712.5 and NCUA will request public comment or otherwise act on the petition within 60 days after receipt. Before you engage